



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-847]

Heavy Walled Rectangular Welded Steel Pipes and Tubes from Mexico: Notice of Court Decision Not in Harmony with the Results of Antidumping Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 6, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Productos Laminados de Monterrey S.A. de C.V. v. United States*, Court No. 20-00166, sustaining the U.S. Department of Commerce's (Commerce) remand results pertaining to the administrative review of the antidumping duty (AD) order on heavy walled rectangular welded steel pipes and tubes (HWR pipes and tubes) from Mexico covering the period September 1, 2017, through August 31, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review and that Commerce is amending the final results with respect to the dumping margin assigned to Productos Laminados de Monterrey S.A. de C.V. (Prolamsa).

DATES: Applicable July 16, 2022.

FOR FURTHER INFORMATION CONTACT: David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3693.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 2020, Commerce published its *Final Results*.¹ In the *Final Results*, we rejected Prolamsa's claim that it sold HWR pipes and tubes in the home market (HM) at two levels of trade (LOT) and found that Prolamsa failed to adequately support its claims with quantitative evidence. We further stated that the burden was on Prolamsa to establish its eligibility for an LOT adjustment.² For these reasons, we found that all sales in the HM were at a single LOT and, thus, denied an LOT adjustment for Prolamsa.

Prolamsa appealed Commerce's *Final Results*. On December 17, 2021, the CIT remanded the *Final Results* to Commerce to reconsider Commerce's finding that Prolamsa made HM sales at one LOT and, thus, was not entitled to an LOT adjustment.³ Specifically, the CIT held that Commerce's final LOT determination was based on findings that were either: (1) not supported by substantial evidence on the record; or (2) vague and conclusory.⁴ In the *Final Remand*, issued in April 2022, Commerce reconsidered the facts on the record and found that Prolamsa made its HM sales at two LOTs.⁵ On July 6, 2022, the CIT sustained Commerce's *Final Remand*.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce

¹ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 41962 (July 13, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² *Id.* at Comment 7.

³ See *Productos Laminados de Monterrey S.A. de C.V. v. United States*, 554 F. Supp. 3d 1355 (CIT 2021).

⁴ *Id.*

⁵ See *Final Results of Redetermination Pursuant to Court Remand, Productos Laminados de Monterrey S.A. de C.V. v. United States*, 554 F. Supp. 3d 1355 (CIT 2021), dated April 7, 2022 (*Final Remand*).

⁶ See *Productos Laminados de Monterrey S.A. de C.V. v. United States*, Ct. No. 20-00166, Slip Op. 22-77 (CIT July 6, 2022).

⁷ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

determination and suspend liquidation of entries pending a “conclusive” court decision. The CIT’s July 6, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Prolamsa as follows:

Producer/Exporter	Weighted-Average Dumping Margin (percent)
Productos Laminados de Monterrey S.A. de C.V.	0.89

Cash Deposit Requirements

Because Prolamsa has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by Prolamsa and were entered, or withdrawn from warehouse, for consumption during the period September 1, 2017, through August 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event that the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Prolamsa in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero

or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,⁹ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: July 18, 2022.

Lisa W. Wang,
Assistant Secretary

for Enforcement and Compliance.

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⁹ See 19 CFR 351.106(c)(2).